

EXHIBIT E

1 ALTVIEW LAW GROUP, LLP
2 JOHN M. BEGAKIS CASBN 278681
john@altviewlawgroup.com
3 12100 Wilshire Blvd., Suite 800
4 Los Angeles, California 90025
Telephone: (310) 230-5580
5 Facsimile: (562) 275-8954

6 *Attorneys for Defendant/Counterclaimant* HYPHY MUSIC, INC.
7

8 UNITED STATES DISTRICT COURT
9 EASTERN DISTRICT OF CALIFORNIA

10
11 YELLOWCAKE, INC., California
12 corporation,

13 Plaintiff,

14 v.

15 HYPHY MUSIC, INC.,

16 Defendant.
17

Case No.:

1:20-cv-00988-DAD-BAM

**DEFENDANT/COUNTERCLAIMANTS'
RESPONSES TO
PLAINTIFF/COUNTERDEFENDANTS'
FIRST SET OF INTERROGATORIES**

18 HYPHY MUSIC, INC.,

19
20 Counterclaimant,

21 v.

22 YELLOWCAKE, INC.; COLONIZE
23 MEDIA, INC; JOSE DAVID
24 HERNANDEZ; and JESUS CHAVEZ
SR,

25 Counterdefendants.
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DEFENDANT/COUNTERCLAIMANT'S RESPONSES TO
PLAINTIFFS/COUNTERDEFENDANTS' FIRST SET OF INTERROGATORIES

1 PROPOUNDING PARTY: Plaintiff/Counterdefendants
2 YELLOWCAKE, INC., COLONIZE
3 MEDIA, INC., and JOSE DAVID
4 HERNANDEZ
5 RESPONDING PARTY: Defendant/Counterclaimant
6 HYPHY MUSIC, INC.
7 SET NUMBER: ONE (1)

8 Pursuant to Rule 33 of the Federal Rules of Civil Procedure ("FRCP"),
9 Defendant/Counterclaimant HYPHY MUSIC, INC. ("Responding Party"), hereby
10 respond to Plaintiff/Counterdefendants' YELLOWCAKE, INC., COLONIZE
11 MEDIA, INC., and JOSE DAVID HERNANDEZ (collectively, "Requesting Party")
12 First Set of Interrogatories.

13 **PRELIMINARY STATEMENT**

14 Responding Party makes these responses solely for the purpose of this action.
15 Responding Party has not fully completed its investigation of the facts relating to
16 this case, has not completed its discovery, and has not completed its preparation for
17 trial in this matter. Accordingly, all of the responses contained herein are based
18 solely upon information and documents that are presently available to and
19 specifically known to Responding Party. Further discovery and independent
20 investigation may supply additional facts and documents which may, in turn, clarify
21 and add meaning to known facts as well as establish entirely new matters, all of
22 which may lead to substantial additions to, changes in, and variations from the
23 responses set forth herein. The following responses are given without prejudice to
24 Responding Party's right to produce evidence of any subsequently discovered fact(s)
25 or document(s) that later may be recalled. Accordingly, Responding Party reserves
26 the right to produce at trial all facts, opinions, or documents, the existence of which
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1 are subsequently discovered through investigation, discovery, or otherwise, which
2 support or tend to support its contentions at the time of trial.

3 Any information provided in response to the Interrogatories is subject to any
4 and all objections regarding competence, relevance, materiality, propriety and
5 admissibility. Responding Party reserves these objections and any other objections
6 not stated herein that would require the exclusion of any information, if such
7 information is offered as evidence at any time during this action. Responding Party
8 may interpose these objections at any time prior to and during the trial of this case.
9 Further, attorneys' work product and/or privileged information are not referred to
10 herein. Any disclosure of or reference herein to attorney-client privileged
11 information or attorney work product is inadvertent and does not constitute a waiver
12 such privilege.

13 No incidental or implied admissions are intended by these responses. The
14 fact that Responding Party responds to or objects to an Interrogatory should not be
15 taken as an admission that Responding Party accepts or admits the existence of any
16 facts or legal conclusions assumed or presumed by the Interrogatory. The fact that
17 Responding Party responds to part or all of an Interrogatory is not intended to be,
18 and shall not be, construed as a waiver by Responding Party of any part of any
19 objection to the Interrogatory.

20 **RESPONSES TO SPECIAL INTERROGATORIES**

21 **INTERROGATORY NO. 1:**

22 State whether or not You have ever Exploited any of Yellowcake's
23 Copyrighted Works.

24 **RESPONSE TO INTERROGATORY NO. 1:**

25 Responding Party responds as follows: Responding Party has exploited the
26 relevant Copyrights, of which Responding Party is a co-owner. Additionally,
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1 discovery is ongoing. As such, Responding Party reserves the right to supplement,
2 amplify or amend its responses to this Interrogatory.

3 **INTERROGATORY NO. 2:**

4 If the answer to the foregoing interrogatory is in the affirmative, identify: (i)
5 the name of the artist of each sound recording Exploited; (ii) the title of each sound
6 recording Exploited; (iii) the date of each Exploitation; (iv) the nature of each such
7 Exploitation; (v) the identity of any third parties involved in each such Exploitation
8 (including, but not limited to, any digital service providers such as Amazon Music,
9 Spotify, Apple Music, iTunes and YouTube.com ("YouTube")); (vi) the gross
10 amount of revenue generated from each such Exploitation; (vii) the name of every
11 party that received any revenue generated by each such Exploitation; and (viii) the
12 amount of revenue received by each such party.

13 **RESPONSE TO INTERROGATORY NO. 2:**

14 Responding Party responds as follows:

- 15 (i) Band: Los Originales de San Juan; Members/Co-Owners: Jesus Chavez
16 Sr., who may be contacted through Mandy Jeffcoach, Esq., and
17 (ii) Domingo Torres, who may be contacted through counsel for
18 Responding Party
19 (iii) Albums: El Campesino; Des de la Cantina de Mi Barrio; Nuestra
20 Historia en Vivo; Corridos de Poca M; and Amigos y Contrarios
21 (iv) El Campesino – 5/31/16; Des de la Cantina de Mi Barrio – 3/24/17;
22 Nuestra Historia en Vivo – 3/31/17; Corridos de Poca M – 2/24/15;
23 Amigos y Contrarios – 2/21/13;
24 (v) El Campesino – via CD and digital transmission through all available
25 Digital Service Providers ("DSPs"); Des de la Cantina de Mi Barrio –
26 via CD, DVD and digital transmission through all available DSPs;
27 Nuestra Historia en Vivo – via CD, DVD and digital transmission
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1 through all available DSPs; Corridos de Poca M – via CD and digital
2 transmission through all available DSPs; Amigos y Contrarios – via CD
3 and digital transmission through all available DSPs

4 (vi) See above

5 (vii) Approximately \$15,000 - \$20,000 per album for each of the three
6 studio album and approximately \$15,000 - \$20,000 for collectively for
7 both live albums

8 (viii) Responding Party

9 (ix) See above

10 Additionally, discovery is ongoing. As such, Responding Party reserves the
11 right to supplement, amplify or amend its responses to this Interrogatory.

12 **INTERROGATORY NO. 3:**

13 State whether or not Hyphy ever posted or uploaded a digital transmission
14 and/or video containing any of Yellowcake's Copyrighted Works to online
15 platforms, including, without limitation, Amazon Music, Spotify, Apple Music,
16 iTunes and YouTube.

17 **RESPONSE TO INTERROGATORY NO. 3:**

18 Responding Party responds as follows: Responding Party posted or uploaded
19 the relevant Copyrights, of which Responding Party is a co-owner, via digital
20 transmission through all available DSPs. Responding Party also posted or uploaded
21 videos of Des de la Cantina de Mi Barrio and Nuestra Historia en Vivo.
22 Additionally, discovery is ongoing. As such, Responding Party reserves the right to
23 supplement, amplify or amend its responses to this Interrogatory.

24 **INTERROGATORY NO. 4:**

25 If the answer to the foregoing interrogatory is in the affirmative, set forth: (i)
26 the URL for each digital transmission and/or video; (ii) the name of the performing
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1 artist and title of the sound recording; and (iii) the gross amount of revenue Hyphy
2 received from the online platform for each digital transmission and/or video.

3 **RESPONSE TO INTERROGATORY NO. 4:**

4 Responding Party responds as follows:

- 5 (i) There are no existing URLs, as Responding Party has taken down all
6 links solely in the interest of caution during the pendency of this
7 dispute.
- 8 (ii) El Campesino, Des de la Cantina de Mi Barrio, Nuestra Historia en
9 Vivo, Corridos de Poca M, and Amigos y Contrarios – all performed by
10 Los Originales de San Juan
- 11 (iii) Approximately \$15,000 - \$20,000 per album for each of the three
12 studio album and approximately \$15,000 - \$20,000 for collectively for
13 both live albums

14 Additionally, discovery is ongoing. As such, Responding Party reserves the
15 right to supplement, amplify or amend its responses to this Interrogatory.

16 **INTERROGATORY NO. 5:**

17 If the answer to Interrogatory No. 1 is in the affirmative, identify the basis
18 upon which Hyphy believes it has, or had, the right to Exploit Yellowcake's
19 Copyrighted Works.

20 **RESPONSE TO INTERROGATORY NO. 5:**

21 Responding Party responds as follows: Responding Party is a co-owner in the
22 sound recordings at issue pursuant to Responding Party's commissioning of such
23 works from Jesus Chavez Sr. and Domingo Torres, who Responding Party fully
24 compensated. Additionally, the two live albums (Des de la Cantina de Mi Barrio and
25 Nuestra Historia en Vivo) were recorded at Responding Party's direction by
26 Pyramid Recording and Jesus Ramirez, who was compensated by Responding Party,
27 videotaped and edited at Responding Party's direction by Marcelino Mendoza, who
28

1 was compensated by Responding Party, and cleaned up at Responding Party's
 2 direction by a bass player named Javier Elizondo, who was also compensated by
 3 Responding Party, and such recording took place at a venue paid for solely by
 4 Responding Party. Additionally, discovery is ongoing. As such, Responding Party
 5 reserves the right to supplement, amplify or amend its responses to this
 6 Interrogatory.

7 **INTERROGATORY NO. 6:**

8 Identify the parties to, and dates of, any agreements upon which Hyphy has,
 9 or had, relied in asserting that it has, or had, the right to Exploit any of Yellowcake's
 10 Copyrighted Works.

11 **RESPONSE TO INTERROGATORY NO. 6:**

12 Responding Party responds as follows:

13 (a) El Campesino – recorded on 2/2/16 pursuant to Responding Party's
 14 agreement to commission such work from Jesus Chavez, Sr. and Domingo
 15 Torres for a full buyout of all rights and an advance of any monies needed
 16 for advertising, at Responding Party's direction pursuant to an agreement
 17 with Omar Rosales, the studio engineer

18 (b) Corridos de Poca M – recorded on 1/24/15 pursuant to Responding Party's
 19 agreement to commission such work from Jesus Chavez, Sr. and Domingo
 20 Torres for a full buyout of all rights and an advance of any monies needed
 21 for advertising, at Responding Party's direction pursuant to an agreement
 22 with Omar Rosales, the studio engineer

23 (c) Amigos y Contrarios – recorded on 1/21/13 pursuant to Responding
 24 Party's agreement to commission such work from Jesus Chavez, Sr. and
 25 Domingo Torres for a full buyout of all rights and an advance of any
 26 monies needed for advertising, at Responding Party's direction pursuant to
 27 an agreement with Omar Rosales, the studio engineer

(d) Des de la Cantina de Mi Barrio and Nuestra Historia en Vivo – both recorded on 11/23/16 pursuant to Responding Party’s agreement to commission such work from Jesus Chavez, Sr. and Domingo Torres for a full buyout of all rights and an advance of any monies needed for advertising, at Responding Party’s direction by Pyramid Studio pursuant to an agreement with Jesus Ramriez, the sound engineer, and Marcelino Mendoza, the video editor. Such works were also cleaned up at Responding Party’s direction pursuant to an agreement with Javier Elizondo, the bass player.

Additionally, discovery is ongoing. As such, Responding Party reserves the right to supplement, amplify or amend its responses to this Interrogatory.

INTERROGATORY NO. 7:

State whether or not Hyphy received any correspondence from Yellowcake, or any third-party purporting to be acting on Yellowcake’s behalf, instructing or directing Hyphy to cease the Exploitation of any of Yellowcake’s Copyrighted Works.

RESPONSE TO INTERROGATORY NO. 7:

Responding Party responds as follows: Not that Responding Party is presently aware. Additionally, discovery is ongoing. As such, Responding Party reserves the right to supplement, amplify or amend its responses to this Interrogatory.

INTERROGATORY NO. 8:

If the answer to the foregoing interrogatory is in the affirmative, identify: (i) each Person who sent such correspondence; (ii) each Person who received each such correspondence; (iii) the date of each such correspondence; and (iv) the substance of each such correspondence.

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1 **RESPONSE TO INTERROGATORY NO. 8:**

2 Responding Party responds as follows: N/A. Additionally, discovery is
3 ongoing. As such, Responding Party reserves the right to supplement, amplify or
4 amend its responses to this Interrogatory.

5 **INTERROGATORY NO. 9:**

6 Describe the circumstances concerning how Hyphy allegedly commissioned
7 Jesus Chaves Sr. to record the Los Originales Albums as works-for-hire for Hyphy.

8 **RESPONSE TO INTERROGATORY NO. 9:**

9 Responding Party responds as follows: Jesus Chavez Sr. and Domingo Torres
10 were free from a label agreement with Morena Music, Inc., and were therefore
11 looking for a new record label to compensate them to release new works. As such,
12 Chavez and Torres first came to Responding Party in 2013, around the time the first
13 relevant album was recorded. Responding Party agreed to pay Chavez and Torres
14 \$25,000 total per album, as a full buyout of all rights, as well as to advance any
15 monies needed for advertising, for such parties to record and deliver as many
16 albums as they chose. Ultimately, Responding Party paid the following amounts for
17 each album:

18 (a) El Campesino – \$14,000 in checks and \$11,000 in cash, plus \$5,000 in
19 checks and \$10,000 in cash for promotion

20 (b) Corridos de Poca M – \$29,500 in checks and \$500 in cash

21 (c) Amigos y Contrarios – \$20,000 cash

22 (d) Des de la Cantina de Mi Barrio and Nuestra Historia en Vivo – \$15,500 in
23 checks and \$15,000 in cash, plus \$3,000 for on-site audio mixing and
24 \$1,200 for video production

25 Additionally, discovery is ongoing. As such, Responding Party reserves the
26 right to supplement, amplify or amend its responses to this Interrogatory.

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INTERROGATORY NO. 10:

Describe the exact terms of the alleged agreement between Hyphy and Jesus Chavez Sr. concerning the Los Originales Albums.

RESPONSE TO INTERROGATORY NO. 10:

Responding Party responds as follows: Responding Party agreed to pay Chavez and Torres \$25,000 total per album, as a full buyout of all rights, as well as to advance any monies needed for advertising, for such parties to record and deliver as many albums as they chose. Additionally, discovery is ongoing. As such, Responding Party reserves the right to supplement, amplify or amend its responses to this Interrogatory.

INTERROGATORY NO. 11:

Set forth whether or not Jesus Chavez Sr. was ever an employee of Hyphy.

RESPONSE TO INTERROGATORY NO. 11:

Responding Party responds as follows: No. Additionally, discovery is ongoing. As such, Responding Party reserves the right to supplement, amplify or amend its responses to this Interrogatory.

INTERROGATORY NO. 12:

If the answer to the foregoing interrogatory is in the affirmative, set forth the dates of Jose Chavez Sr.'s alleged employment with Hyphy and the terms thereof.

RESPONSE TO INTERROGATORY NO. 12:

Responding Party responds as follows: N/A. Additionally, discovery is ongoing. As such, Responding Party reserves the right to supplement, amplify or amend its responses to this Interrogatory.

INTERROGATORY NO. 13:

Set forth all facts substantiating Hyphy's claim that it is the owner of the Los Originales Albums.

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RESPONSE TO INTERROGATORY NO. 13:

Responding Party responds as follows: Responding Party is a co-owner in the sound recordings at issue pursuant to Responding Party's commissioning of such works from Jesus Chavez Sr. and Domingo Torres, who Responding Party fully compensated. Additionally, the two live albums (Des de la Cantina de Mi Barrio and Nuestra Historia en Vivo) were recorded at Responding Party's direction by Pyramid Recording and Jesus Ramirez, and videotaped at Responding Party's direction by Marcelino Mendoza, who was compensated by Responding Party, and cleaned up at Responding Party's direction by a bass player named Javier Elizondo, who was also compensated by Responding Party, and such recording took place at a venue paid for solely by Responding Party. Ultimately, Responding Party paid the following amounts for each album:

(e) El Campesino – \$14,000 in checks and \$11,000 in cash, plus \$5,000 in checks and \$10,000 in cash for promotion

(f) Corridos de Poca M – \$29,500 in checks and \$500 in cash

(g) Amigos y Contrarios – \$20,000 cash

(h) Des de la Cantina de Mi Barrio and Nuestra Historia en Vivo – \$15,500 in checks and \$15,000 in cash, plus \$3,000 for on-site audio mixing and \$1,200 for video production

Additionally, discovery is ongoing. As such, Responding Party reserves the right to supplement, amplify or amend its responses to this Interrogatory.

INTERROGATORY NO. 14:

Identify all individuals who allegedly provided original authorship to the Los Originales Albums including, but not limited to: (i) the exact nature of the contribution; (ii) when such contribution was made; (iii) where such contribution was made; (iv) the identity and contact information for any witnesses to such contribution; (v) whether such individual was an employee of Hyphy and the dates

1 of any such employment; and (vi) whether such person received any compensation
2 for such contribution and if so, the amount of such compensation.

3 **RESPONSE TO INTERROGATORY NO. 14:**

4 Responding Party responds as follows:

- 5 (i) Jesus Chavez Sr. – singer; Domingo Torres – accordion, backup vocals,
6 and producer; Pyramid Recording and Jesus Ramirez – recording and
7 sound engineer; Marcelino Mendoza – videographer and editor; Omar
8 Rosales – studio engineer; Javier Elizondo – bass player and music
9 producer, who did clean-up work on live album
10 (ii) El Campesino – recorded on 2/2/16; Corridos de Poca M – recorded on
11 1/24/15; Amigos y Contrarios – recorded on 1/21/13; Des de la Cantina
12 de Mi Barrio and Nuestra Historia en Vivo – both recorded on 11/23/16
13 (iii) All three studio albums were recorded at Estudios Rosales in Selma,
14 CA; both live albums were recorded at Aldo’s Nightclub in Fresno, CA
15 (iv) Aldo and Eddie Quintana – owners of Aldo’s Nightclub.
16 (v) Only Marcelino Mendoza, who was an independent contractor from in
17 or about 2013 to in or about 2017 and employee from in or about 2017
18 to in or about 2018.
19 (vi) As an independent contractor and employee, Marcelino Mendoza only
20 received regular monthly compensation pursuant to the terms of his
21 employment, not compensation for any purported “contributions.”

22 Additionally, discovery is ongoing. As such, Responding Party reserves the
23 right to supplement, amplify or amend its responses to this Interrogatory.

24 **INTERROGATORY NO. 15:**

25 Set forth all facts substantiating Hyphy’s claim that it is the owner of the Los
26 Originales Cover Art.

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RESPONSE TO INTERROGATORY NO. 15:

Responding Party responds as follows: Marcelino Mendoza, who was an independent contractor from in or about 2013 to in or about 2017 and employee from in or about 2017 to in or about 2018, created the cover art for Requesting Party. Additionally, discovery is ongoing. As such, Responding Party reserves the right to supplement, amplify or amend its responses to this Interrogatory.

INTERROGATORY NO. 16:

Identify all individuals who allegedly provided original authorship to the Los Originales Cover Art including, but not limited to: (i) the exact nature of the contribution; (ii) when such contribution was made; (iii) where such contribution was made; (iv) the identity and contact information for any witnesses to such contribution; (v) whether such individual was an employee of Hyphy and the dates of any such employment; and (vi) whether such person received any compensation for such contribution and if so, the amount of such compensation.

RESPONSE TO INTERROGATORY NO. 16:

Responding Party responds as follows:

- (i) Marcelino Mendoza designed, and took pictures of all images for, the cover art for all five albums
- (ii) Each album's cover art was designed approximately 20 days prior to the release thereof;
- (iii) Responding Party's Office – 2660 West Shaw Lane, Suite 110, Fresno, CA 93711;
- (iv) None other than the Band members
- (v) Marcelino Mendoza was an independent contractor from in or about 2013 to in or about 2017 and employee from in or about 2017 to in or about 2018

- (vi) As an independent contractor and employee, Marcelino Mendoza only received regular monthly compensation pursuant to the terms of his employment, not compensation for any purported “contributions.”

Additionally, discovery is ongoing. As such, Responding Party reserves the right to supplement, amplify or amend its responses to this Interrogatory.

INTERROGATORY NO. 17:

Set forth all facts substantiating any defenses claimed or to be asserted by either Defendant.

RESPONSE TO INTERROGATORY NO. 17:

Responding Party responds as follows: Responding Party is not liable for copyright infringement or any claim related thereto because Responding Party is an equal co-owner in the relevant Copyrights by virtue of its commissioning of such works from Chavez and Torres. Additionally, discovery is ongoing. As such Responding Party reserves the right to supplement, amplify or amend its responses to this Interrogatory.

DATED: March 31, 2022


s for fendant unter-
INC.

VERIFICATION

STATE OF CALIFORNIA)
) ss.
COUNTY OF LOS ANGELES)

I have read the foregoing **DEFENDANT/COUNTERCLAIMANT'S RESPONSES TO PLAINTIFF/COUNTERDEFENDANTS' FIRST SET OF REQUESTS FOR PRODUCTION** and know its contents.

____ I am a party to this action. The matters stated in the foregoing document are true of my own knowledge except as to those matters which are stated on information and belief, and as to those matters I believe them to be true.


 X I am X an Officer ____ a partner of Hyphy Music Inc., a party to this action, and am authorized to make this verification for and on its behalf, and I make this verification for that reason. ____ I am informed and believe and on that ground allege that the matters stated in the foregoing document are true. X The matters stated in the foregoing document are true of my own knowledge, except as to those matters which are stated on information and belief, and as to those matters I believe them to be true.

____ I am one of the attorneys for _____, a party to this action. Such party is absent from the county of aforesaid where such attorneys have their offices, and I make this verification for and on behalf of that party for that reason. I am informed and believe and on that ground allege that the matters stated in the foregoing document are true.

Executed on March 29, 2022, at Fresno, California.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Jose Martinez
Type or Print Name


Signature

PROOF OF SERVICE

STATE OF CALIFORNIA, COUNTY OF LOS ANGELES

I am employed in the County of Los Angeles, State of California. I am over the age of eighteen years and not a party to the within action; my business address is 12100 Wilshire Blvd., Suite 800, Los Angeles, CA 90025.

On March 31, 2022, I served the documents described as:

**DEFENDANT/COUNTERCLAIMANTS' RESPONSES TO
PLAINTIFF/COUNTERDEFENDANTS' FIRST SET OF
INTERROGATORIES**

**DEFENDANT/COUNTERCLAIMANT'S RESPONSES TO
PLAINTIFF/COUNTERDEFENDANTS' FIRST SET OF REQUESTS FOR
PRODUCTION**

on all interested parties in this action by placing _____ the original X a true copy thereof enclosed in sealed envelope(s) addressed as follows:

Thomas P. Griffin, Jr., Esq.
HEFNER, STARK & MAROIS, LLP
2150 River Plaza Drive, Suite 450
Sacramento, CA 95833

Seth L. Berman, Esq.
ABRAMS, FENSTERMAN, EISMAN LLP
3 Dakota Drive, Suite 300
Lake Success, NY 11042

[X]: BY MAIL:

As follows: I am readily familiar with the firm's practice of collection and processing correspondence for mailing. Under that practice, it would be deposited with the U.S. Postal Service on the same day with postage thereon fully prepared at Los Angeles, California, in the ordinary course of business. I am aware that on motion of the party served, service is presumed invalid if postal cancellation date or postage meter date is more than one day after date of deposit for mailing in affidavit.

[X]: (STATE) - I declare under penalty of perjury under the laws of the State of California that the above is true and correct.

I declare under penalty of perjury that the foregoing is true and correct.

EXECUTED on March 31, 2022, in Los Angeles, California.


John Begakis

PROOF OF SERVICE